

215639  
ROBERT GUILD

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March 9, 2009

Mr. Charles Terreni  
Chief Clerk  
Public Service Commission of South Carolina  
Synergy business Park, Saluda Building  
101 Executive Center Drive  
Columbia, SC 29210

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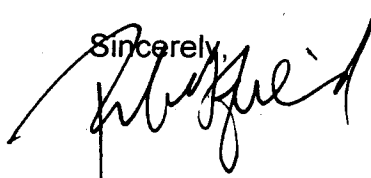
In Re: Combined Application of South Carolina Electric & Gas Company for a  
Certificate of Environmental Compatibility and Public Convenience and  
Necessity and for a Base Load Review Order for the Construction and Operation  
of a Nuclear Facility at Jenkinsville, South Carolina  
Docket No. 2008-196-E

Dear Mr. Terreni:

Enclosed please find for filing and consideration the original and ten (10) copies  
of the **PETITION FOR REHEARING OR RECONSIDERATION BY FRIENDS OF THE  
EARTH**, together with Certificate of Service reflecting service upon all parties of record.

With kind regards I am

Sincerely,



Robert Guild

Encl.s  
CC: All Parties

**STATE OF SOUTH CAROLINA****(Caption of Case)**

**In Re: Combined Application of South Carolina  
Electric & Gas Company for a Certificate of  
Environmental Compatibility and Public  
Convenience and Necessity and for a Base Load  
Review Order for the Construction and Operation of  
a Nuclear Facility at Jenkinsv**

**BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA**

**COVER SHEET****DOCKET****NUMBER: 2008 - 196 - E**

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**(Please type or print)****Submitted by: Robert Guild****SC Bar Number: 2358****Attorney at Law****Address:****314 Pall Mall****Telephone: 803 252 1419****Columbia, SC 29201****Fax: 803 252 1419****Other:****Email: bguild@mindspring.com**

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

**DOCKETING INFORMATION** (Check all that apply)

☐ **Emergency Relief demanded in petition**      ☐ **Request for item to be placed on Commission's Agenda expeditiously**

☐ **Other:** \_\_\_\_\_

**INDUSTRY (Check one)****NATURE OF ACTION (Check all that apply)**

- |  |  |  |   |
|--|--|--|---|
| <input checked="" type="checkbox"/> Electric         | <input type="checkbox"/> Affidavit                 | <input type="checkbox"/> Letter                                  | <input type="checkbox"/> Request                  |
| <input type="checkbox"/> Electric/Gas                | <input type="checkbox"/> Agreement                 | <input type="checkbox"/> Memorandum                              | <input type="checkbox"/> Request for Certificatio |
| <input type="checkbox"/> Electric/Telecommunications | <input type="checkbox"/> Answer                    | <input type="checkbox"/> Motion                                  | <input type="checkbox"/> Request for Investigator |
| <input type="checkbox"/> Electric/Water              | <input type="checkbox"/> Appellate Review          | <input type="checkbox"/> Objection                               | <input type="checkbox"/> Resale Agreement         |
| <input type="checkbox"/> Electric/Water/Telecom.     | <input type="checkbox"/> Application               | <input type="checkbox"/> Petition                                | <input type="checkbox"/> Resale Amendment         |
| <input type="checkbox"/> Electric/Water/Sewer        | <input type="checkbox"/> Brief                     | <input checked="" type="checkbox"/> Petition for Reconsideration | <input type="checkbox"/> Reservation Letter       |
| <input type="checkbox"/> Gas                         | <input type="checkbox"/> Certificate               | <input type="checkbox"/> Petition for Rulemaking                 | <input type="checkbox"/> Response                 |
| <input type="checkbox"/> Railroad                    | <input type="checkbox"/> Comments                  | <input type="checkbox"/> Petition for Rule to Show Cause         | <input type="checkbox"/> Response to Discovery    |
| <input type="checkbox"/> Sewer                       | <input type="checkbox"/> Complaint                 | <input checked="" type="checkbox"/> Petition to Intervene        | <input type="checkbox"/> Return to Petition       |
| <input type="checkbox"/> Telecommunications          | <input type="checkbox"/> Consent Order             | <input type="checkbox"/> Petition to Intervene Out of Time       | <input type="checkbox"/> Stipulation              |
| <input type="checkbox"/> Transportation              | <input type="checkbox"/> Discovery                 | <input type="checkbox"/> Prefiled Testimony                      | <input type="checkbox"/> Subpoena                 |
| <input type="checkbox"/> Water                       | <input type="checkbox"/> Exhibit                   | <input type="checkbox"/> Promotion                               | <input type="checkbox"/> Tariff                   |
| <input type="checkbox"/> Water/Sewer                 | <input type="checkbox"/> Expedited Consideration   | <input type="checkbox"/> Proposed Order                          | <input type="checkbox"/> Other:                   |
| <input type="checkbox"/> Administrative Matter       | <input type="checkbox"/> Interconnection Agreement | <input type="checkbox"/> Protest                                 |   |
| <input type="checkbox"/> Other:                      | <input type="checkbox"/> Interconnection Amendment | <input type="checkbox"/> Publisher's Affidavit                   |   |

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2008-196-E

In Re: Combined Application of South )  
Carolina Electric & Gas Company for a )  
Certificate of Environmental Compatibility and )  
Public Convenience and Necessity and for a )  
Base Load Review Order for the Construction )  
and Operation of a Nuclear Facility at )  
Jenkinsville, South Carolina )

**PETITION FOR REHEARING OR  
RECONSIDERATION BY  
FRIENDS OF THE EARTH**

RECEIVED  
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PUBLIC SERVICE  
COMMISSION

Friends of the Earth ("FoE"), Intervenor in the above-referenced proceeding, hereby petitions the Commission pursuant to S.C. Code Ann. Section 58-27-2150 (1976) and Rule 103-854 of the Commission's Rules, for rehearing or reconsideration of Order No. 2009-104(A), dated March 2, 2009, approving the Combined Application of South Carolina Electric & Gas Company for a Certificate of Environmental Compatibility and Public Convenience and Necessity and for a Base Load Review Order for the Construction and Operation of a Nuclear Facility at Jenkinsville, South Carolina. FOE urges the Commission to reconsider said Order, to correct the errors therein as set forth below, and to reject said Combined Application.

In support of this petition for rehearing or reconsideration of Order No. 2009-104(A), FoE would respectfully show that:

1. The Commission erred in approving the Combined Application pursuant to

the Baseload Review Act, S.C. Code Ann. Sections 58-33-210, et seq., which Act , on its face and as applied in this Order, deprives Petitioner and all other ratepayers of their property without due process of law contrary to the Constitutions of the United States and South Carolina;

2. The Commission erred in approving the Combined Application where the Applicant has failed to establish that: public convenience and necessity justify permission to proceed with initial clearing, excavation, dredging and construction, contrary to S.C. Code Ann. Section 58-33-110(7);

3. The Commission erred in approving the Combined Application where he Applicant has failed to fully and accurately describe and establish a description of the facility to be built, the environmental impacts of the facility, the need for the facility, and other relevant information, contrary to S.C. Code Ann. Section 58-33-120;

4. The Commission erred in approving the Combined Application where the Applicant has failed to demonstrate the basis of the need for the facility, the nature of the probable environmental impact of the facility, that the impact of the facility upon the environment is justified considering the state of available technology and the nature and economics of the various alternatives and other pertinent considerations, that the facilities will serve the interests of system economy and reliability, that there is reasonable assurance that the proposed facility will conform to applicable State and local laws and regulations, and that public convenience and necessity require the construction of the facility, contrary to S.C. Code Ann. Section 58-33-160;

5. The Commission erred in approving the Combined Application where the purpose of protecting customers of investor-owned electrical utilities from responsibility

for imprudent financial obligations or costs will not be served, contrary to Section 1(A) of 2007 Act No. 16;

6. The Commission erred in approving the Combined Application where the Applicant has failed to meet its burden of proof that the decision to build the plant was prudent;

7. The Commission erred in approving the Combined Application where the Applicant has failed to fully and accurately describe and establish (a) information showing the anticipated construction schedule for the plant; (b) information showing the anticipated components of capital costs and the anticipated schedule for incurring them; c) information showing the projected effect of investment in the plant on the utility's overall revenue requirement for each year during the construction period; (d) information identifying: (1) the specific type of units selected for the plant; (2) the suppliers of the major components of the plant; and (3) the basis for selecting the type of units, major components, and suppliers; (e) information detailing the qualification and selection of principal contractors and suppliers, other than those listed in item (2) above, for construction of the plant; (f) information showing the anticipated in-service expenses associated with the plant (g) information required by Section 58-33-270(B)(6); (h) information identifying risk factors related to the construction and operation of the plant; (i) information identifying the proposed rate design and class allocation factors to be used in formulating revised rates; (j) information identifying the return on equity proposed by the utility pursuant to Section 58-33-220(16); and (k) the revised rates, if any are requested, that the utility intends to put in place after issuance of the resulting base load review order, contrary to S.C.

Code Ann. Section 58-33-250;

8. The Commission erred in approving the Combined Application where the Applicant has failed to demonstrate that the utility's decision to proceed with construction of the plant is prudent and reasonable considering the information available to the utility at the time, contrary to S.C. Code Ann. Section 58-33-270;

9. The Commission erred in approving the Combined Application where the Applicant has failed to demonstrate that plant will be used and useful for utility purposes, and that its capital costs will be prudent utility costs and expenses, contrary to S.C. Code Ann. Section 58-33-275.

10. The Commission erred in approving the Combined Application where the evidence in this record shows that the Applicant has not adequately analyzed its options, nor its forecast needs and resources, particularly in light of recent developments in the economy and financial markets; nor has the applicant seriously considered the impacts of the current economic crisis on its proposal. By contrast, Duke Energy has slashed its forecast, and put its nuclear expansion plans on hold, at least until the depth and scope of the financial crisis is resolved.

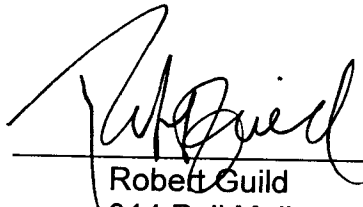
11. The Commission erred in approving the Combined Application where the Applicant would significantly lower its risk profile if it pursued a more modular resource development program, instead of placing a bet at least twice as big as its rate base on one untested technology, especially using ratepayers' money. Under such circumstances the Commission should reject the application, or at least defer it to allow the utility to better develop its integrated resource plan in light of recent developments; and complete the promised outside review of energy efficiency and demand side

management opportunities to reduce the need for new capacity.

12. The Commission erred in approving the Combined Application where it should so condition the Applicant's recovery of associated costs so that the Applicant is held to the promised benefits implicit in its analysis of the merits of its proposal. Such a condition is entirely consistent with the Base Load Review Act and reasonable expectations of the finance community as well as the Applicant's ratepayers.

13. The Commission erred in approving the Combined Application where said Order is arbitrary, capricious, an abuse of discretion, clearly erroneous, unsupported by substantial evidence, in violation of constitutional or statutory provisions, made upon unlawful procedure or affected by other error of law.

WHEREFORE: for the foregoing reasons, Friends of the Earth, on behalf of its members who will be adversely affected by the approval of the subject Application, hereby urges the Commission to reconsider said Order, to correct the errors therein as set forth above, and to reject said Combined Application.

  
Robert Guild  
314 Pall Mall  
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(803) 252 1419  
ATTORNEY FOR PETITIONER  
FRIENDS OF THE EARTH

March 9, 2009

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2008-196-E

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Certificate of Environmental Compatibility and )  
Public Convenience and Necessity and for a )  
Base Load Review Order for the Construction )  
and Operation of a Nuclear Facility at )  
Jenkinsville, South Carolina )

CERTIFICATE OF SERVICE

I hereby certify that on this date I served the above **PETITION FOR REHEARING OR RECONSIDERATION BY FRIENDS OF THE EARTH** by placing copies of same in the United States Mail, first-class postage prepaid, addressed to:

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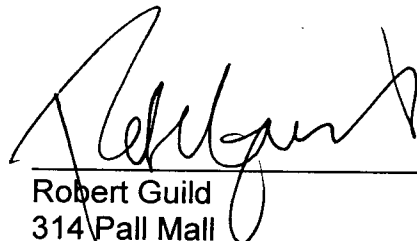
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Honorable Gregrey Ginyard  
Mayor, Town of Jenkinsville  
366 Lakeview Drive  
Jenkinsville, SC 29065

John Frampton  
South Carolina Department of Natural Resources (by statute)  
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March 9, 2009



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